



SMALL BUSINESS ADMINISTRATION

[Docket No. SBA-2021-0012]

Small Business Size Standards: Termination of Nonmanufacturer Rule Class

Waiver

AGENCY: U.S. Small Business Administration.

ACTION: Notice of termination of class waiver to the Nonmanufacturer Rule.

SUMMARY: The U.S. Small Business Administration (SBA) is terminating a class waiver of the Nonmanufacturer Rule (NMR) for Furniture Frames and Parts, Metal, Manufacturing under North American Industry Classification System (NAICS) code 337215 and Product Service Code (PSC) 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 337215 and PSC 7195; Furniture, Factory-type (e.g., cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g., hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g., benches, cabinets, stools, tables) Manufacturing under NAICS code 337127 and PSC 7195. As the above-identified class waiver is terminated, small businesses will no longer be authorized to provide the product of any manufacturer regardless of size on the identified items, unless a Federal Contracting Officer obtains an individual waiver to the NMR.

DATES: The termination of the class waiver takes effect immediately.

FOR FURTHER INFORMATION CONTACT: Carol Hulme, Program Analyst, by telephone at 202-205-6347; or by email at Carol-Ann.Hulme@sba.gov.

SUPPLEMENTARY INFORMATION: Sections 8(a)(17) and 46 of the Small Business Act (the Act), 15 U.S.C. 637(a)(17) and 657, and SBA's implementing

regulations found at 13 CFR 121.406(b) require that recipients of Federal supply contracts issued as a small business set-aside (except as stated below), service-disabled veteran-owned small business set-aside or sole source contract, Historically Underutilized Business Zone set-aside or sole source contract, women-owned small business or economically disadvantaged women-owned small business set-aside or sole source contract, 8(a) set-aside or sole source contract, partial set-aside, or set aside of an order against a multiple award contract provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule (NMR). Note that the NMR does not apply to small business set-aside acquisitions with an estimated value between the micro-purchase threshold and the simplified acquisition threshold but continues to apply to socioeconomic set-aside and sole source acquisitions over the micro-purchase threshold.

Sections 8(a)(17)(B)(iv)(II) and 46(a)(4)(B) of the Act authorize SBA to waive the NMR for a “class of products” for which there are no small business manufacturers or processors available to participate in the Federal market. SBA identifies a “class of products” based on a combination of the six-digit NAICS code and a description of the class of products. As implemented in SBA’s regulations at 13 CFR 121.1202(c), to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or been awarded a contract to supply the class of products within the last 24 months.

In accordance with the SBA’s regulations at 13 CFR 121.1204(a)(7), SBA will periodically review existing class waivers to the NMR to determine whether small business manufacturers or processors have become available to participate in the Federal market. Upon receipt of information that such a small business manufacturer or processor exists, SBA will announce its intent to terminate the NMR waiver for a class of products.

13 CFR 121.1204(a)(7)(ii). Unless public comment reveals no small business exists for the class of products in question, SBA will publish a Final Notice of Termination in the *Federal Register*.

On February 24, 2006, SBA issued in the *Federal Register* a notice of intent to waive the NMR for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 337215 and PSC 7195; Furniture, Factory-type (e.g., cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g., hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g., benches, cabinets, stools, tables) Manufacturing under NAICS code 337127 and PSC 7195. The notice can be found at 71 FR 9631. After the comment and notice period passed, SBA issued a class waiver for those products on June 27, 2006 (71 FR 36599).

On October 6, 2019, SBA received a request to terminate the previously issued waiver. The requester provided information that established the existence of small business manufacturers of the identified products. These small businesses have submitted bids on Federal solicitations within the past 24 months. Based on this information, SBA published a notice in the *Federal Register* on February 15, 2022, seeking comments on the termination of the class waiver for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 337215 and PSC 7195; Furniture, Factory-type (e.g., cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g., hospital beds, operating room furniture)

Manufacturing under NAICS code 339113 and PSC 7195¹; and Furniture, Laboratory-type (e.g., benches, cabinets, stools, tables) Manufacturing under NAICS code 337127 and PSC 7195.² That notice can be found at 87 FR 8628. There was one public comment submitted by a small business manufacturer of products listed under the identified NAICS codes. That comment was in support of termination of the class waiver.

Thus, SBA is terminating the class waiver for Furniture Frames and Parts, Metal, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Frames, Wood, Manufacturing under NAICS code 337215 and PSC 7195; Furniture Parts, Finished Plastics, Manufacturing under NAICS code 337215 and PSC 7195; Furniture, Factory-type (e.g., cabinets, stools, tool stands, work benches), Manufacturing under NAICS code 337127 and PSC 7110; Furniture, Hospital (e.g., hospital beds, operating room furniture) Manufacturing under NAICS code 339113 and PSC 7195; and Furniture, Laboratory-type (e.g., benches, cabinets, stools, tables) Manufacturing under NAICS code 337127 and PSC 7195. As the above-identified class waiver is terminated, small businesses will no longer be authorized to provide the product of any manufacturer regardless of size on the identified items, unless a Federal Contracting Officer obtains an individual waiver to the NMR.

More information on the NMR and class waivers can be found at <https://www.sba.gov/partners/contracting-officials/small-business-procurement/nonmanufacturer-rule>.

Wallace D. Sermons II,
Acting Director, Office of Government Contracting.

¹ At the time the initial waiver was issued in 2006, the applicable NAICS code was 339111. That code changed to 339113 in 2007.

² At the time the initial waiver was issued in 2006, the applicable NAICS code was 339111. That code changed to -337127 in 2007. The Notice of Intent to terminate the class waiver published on February 15, 2022, inadvertently classified it under 339113.

